

Department of Public Health and Human Services

Public Health & Safety Division ♦ Communicable Disease Control & Prevention Bureau

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EXHIBIT ⁹
DATE 3-12-13
SB 94

Steve Bullock, Governor

Richard H. Opper, Director

POSITION ON LEGISLATION – MONTANA FOOD SAFETY ADVISORY COUNCIL

Presented to: House Agriculture Committee

Hearing Date/Time/Location: March 12, 2013; 3:00 PM, Room 472

Bill Number & Sponsor: SB 94; Dee L. Brown SD 2

Title: Revise laws regarding exchanges between home canners and gardeners

Recommendations: There are six members of the Food Safety Advisory Council. Five responded, all in opposition to the current bill draft. Three provided written comments (attached), two provided comment by phone.

The concerns of the Food Safety Advisory Council focused on lack of definition of the term 'exchange'. Also home canned foods can potentially create a risk of foodborne illness.

(Please see attached comments from Council Members)

Presented by Jim Murphy, DPHHS, jmurphy@mt.gov 444-4016



LEWIS & CLARK CITY-COUNTY
Health Department

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January 15, 2013

TO: Food Safety Advisory Council

FROM: Laurel Riek, RS

Food Safety Advisory Council Member

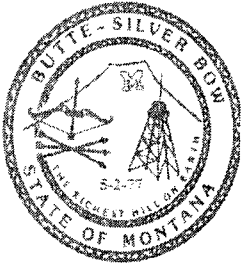
RE: SB 94 – “An act exempting the exchange of certain foods and beverages from food safety Regulations and amending Section 50-50-102 MCA”

I am opposed to Senate Bill 94 as introduced. This bill is removing a key component of safe food delivery to our communities by eliminating process controls for canned foods.

The risk from improperly canned foods is from *Clostridium botulinum* which creates a deadly neurotoxin. The process reviews and licensing of facilities that produce pickled, low acid and high acid canned foods helps to protect the public from an incidence of botulism. This disease can cause paralysis, nerve damage, and the need for extensive and costly medical interventions.

In addition, the language surrounding an “exchange of foods and beverages” is not detailed enough to identify who would be exempt. The examples of “high-acid foods” listed in the proposed language do not match the definitions of “high-acid foods” listed in other regulations. Not all fruits and tomatoes have a pH < 4.6. Pickles are an acidified food as referenced in 21 CFR 114.

C. botulinum can be prevented by adequate processing controls. As written, this bill is eliminating those controls and is a risk to public health. Please see the attached letter from AMPHO, MEHA, and MPHA for opposition to the bill.



BUTTE-SILVER BOW HEALTH DEPARTMENT

25 West Front Street

Butte, Montana 59701

Office Number: (406)497-5020

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To: Montana State Legislature

From: John Rolich, R.S., Food Safety Advisory Council Member

Date: January 15, 2012

Subject: Senate Bill No.94 "An Act Exempting the Exchange of Certain Foods and Beverages from Food Safety Regulations; and Amending section 50-50-102; MCA."

Thank you for allowing me to comment on Senate Bill No.94 "An Act Exempting the Exchange of Certain Foods and Beverages from Food Safety Regulations; and Amending section 50-50-102; MCA."

1. 50-50-102-4b: The term does not include people who gather to exchange: (i) high-acid canned goods, including but not limited to tomato sauce, fruits, pickles, or other vinegar-based foods; (ii) home-brewed beer; or (iii) dehydrated fruits and vegetables.

Comments:

1. **The language is vague. How is exchange defined and in what venues, events can these food items be exchanged?**
2. **Improper canning of food items can cause major food borne illness which can lead to death (ie: Clostridium Botulinum).**
3. **What procedures are used to determine if a canned food item is high-acid.**
4. **If the products are distributed to the general public, there must be proper labeling of these products stating "That the products are not from an approved source and that they are consuming the product at their own risk".**

I am in opposition of Senate Bill No. 94 "An Act Exempting the Exchange of Certain Foods and Beverages from Food Safety Regulations; and Amending section 50-50-102; MCA."

If you have any questions, I can be reached at 406-497-5027 or jrolich@bsb.mt.gov

I oppose Senate Bill 94 as proposed.

Comments:

1. My first concern is in regards to the specific wording "people who gather to exchange".

The term is not self explanatory and needs further definition. Is this a group of friends or private club who gather in a location to exchange foods amongst themselves? In that application the food is traceable to the source and there is a level of insight and personal trust in regards to each other's food safety practices amongst participants. This would not be an event that requires licensure.

If the term includes people gathering with the intention to distribute home processed foods to consumers at a public event, then licensure must continue to be mandatory. There is a level of expectation by consumers when they go to public events that the food is guaranteed to be safe. People assume that foods (unless otherwise labeled) sold at retail at public events have been approved by a health authority. If food comes from an unlicensed kitchen made with unapproved processes, we cannot offer any assurance that the food is safe. At a minimum if this bill is to be considered, any canned foods allowed to be sold at retail that have not gone through process review should be labeled as processed in a home kitchen and not having been approved by a health authority.

Point being: "people who gather to exchange" must be clearly defined.

2. My second concern is in regards to food safety and home canned foods:

You cannot tell by looking at a jar of food whether or not it is o.k. You have to know a food's history to make that determination. Thus, "how it was canned" becomes a very important factor in food safety.

Going through the licensing process gives insight into how a product is prepared as the process and recipe are reviewed for food safety. It is mandatory that there are two forms of protection against the growth of bacteria of concern (namely clostridium botulinum) when a person submits a recipe for review. For those that are not familiar with c. botulinum, it can produce a deadly toxin when allowed to grow in an aerobic environment such as canned food. It is found in soil alongside produce in gardens. It can produce spores which can survive in unfavorable conditions such as high heat or in the presence of chemicals making it very difficult to kill. A person exposed to c. botulinum can experience range of varying symptoms including nausea, vomiting, breathing difficulties, weakness or paralysis, and/or blurred vision to name a few. It can potentially be fatal.

Additionally in the plan review process, the person doing the canning is made aware of available resources and provides a basic demonstration of their knowledge of food safety. The facility in which the food is prepared is also approved. Labeling requirements ensure that ingredients are identified so that those with allergies can avoid dangerous foods and the food itself can be tracked or recalled if necessary.

Regulation of canned foods should not be revoked as proposed by SB94 because it provides a trained professional look into how a product is canned. This provides the consumers at public

events with some ease knowing that there has been some oversight as to how the products they are purchasing have been prepared. No regulation may allow food that may have been canned improperly to be made available to the unsuspecting consumer. It is possible that an inappropriate process is used to can the food and the consumer has no way of knowing that the food is unsafe until it is too late.

Kelly David